IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 314 OF 2000

IN

SUIT NO. 223 OF 1977

Indian Oil Corporation Ltd. ... Appellants
(Orig. Plaintiffs)

Versus

Kela Company (India) Pvt.Ltd. ... Respondents
(Orig. Defendants)

Mr. A.Y.Bookwala i/b. Malvi Ranchoddas & Co. for the Appellants.

None for Respondents.

CORAM: D.K.DESHMUKH &
J.H.BHATIA,JJ.

DATE : 10th September, 2007.

P.C.

1. By this Appeal, the appellants, who are plaintiffs in Suit No.223 of 1977, challenge the order dated 15th October, 1999 by which the suit has been dismissed. The principal reason that weighed with the Court was that the circular on which the suit itself is

based is not available and could not be produced before the Court. When the matter was before us, we had asked the learned Counsel for the appellants to produce the circular. He sought time to produce the circular, but he could not do so. Even today, he seeks time to do so. It appears that the appellants are not in a position to produce the circular. In any case, to give the appellants an opportunity to produce the circular, in our opinion, the following order would meet the ends of justice :-

> In case within a period of four weeks from today, the appellants file an affidavit along with the circular on which the suit was based in this Court, the Appeal shall be placed before the Court with that affidavit. In case no such affidavit is filed, the Office shall treat this Appeal as disposed of.

(D.K.DESHMUKH,J)

(J.H.BHATIA,J.)